

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	10/040,012	COLLAZO, CARLOS M.
	Examiner	Art Unit
	Greg Bengzon	2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to RCE filed 11/28/2007.
2.  The allowed claim(s) is/are Claims 4-10 renumbered Claims 1-7 respectively.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

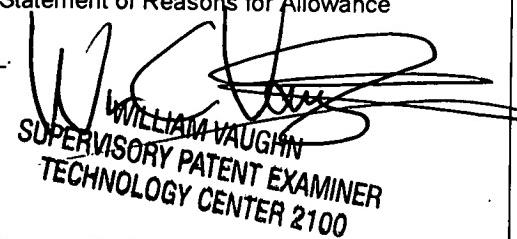
\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
    - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 20080124
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_



WILLIAM VAUGHN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

## **DETAILED ACTION**

This application has been examined. Claims 4-10 are pending. Claims 1-3 are cancelled.

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/28/2007 has been entered.

### ***Priority***

This application claims benefits of priority from US Provisional application 60243783, filed October 26, 2000.

The effective date of the subject matter in the claims in this application is October 26, 2000.

***Allowable Subject Matter***

Claims 4-10 are allowed.

The following is an examiner's statement of reasons for allowance:

The provision for – a *computer implemented method for assessing computer server and communications network capacity, the method comprising:*

*calculating two integer values representing a Local Node Value (LNV) and a Composite Node Value (CNV);*

*calculating the LNV of a server as an integer value through a combination of measured counters at the same instantaneous point in time, the LNV reflecting the capacity of the server to receive work loads; and,*

*calculating the CNV of a beginning server as an integer value through a combination of the LNVs of a sub-network of servers that begins with the beginning server, the calculation of the CNV including the LNV of the beginning server, the CNV reflecting the capacity of the sub-network beginning with the beginning server to collectively receive workloads*

*wherein said LNV and CNV allow a user to analyze network device performance and network resource utilization in a peer-to-peer, real-time relationship, without requiring a multi-tier polling data collection process via a central console, said peer-to-*

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*peer real-time relationship comprising a peer-to-peer value including said CNV and said LNV and capable of changing dynamically, in one to many, many to one, and bi-directional relationships between a plurality of calculated values*

wherein said CNV and LNV values are displayed in a client interface device and associated with a new network resource configuration wherein one or more network elements are communicatively coupled in a different manner from a previous network resource configuration.

-- wherein all the features previously described are combined in one singular embodiment, is not fairly taught or suggested by the prior art of record.

The Examiner finds particular novelty in the method for calculating two integer values representing a Local Node Value (LNV) and a Composite Node Value (CNV) as described in the Applicant Specification (page 4 Paragraph 22-23 ) wherein the local utilization value (LNV) is passed from one intelligence object to another. Each intelligence object can modify the passed value to include a measurement of its own host computer. The modified value is referred to as a "composite" utilization value (CNV). The composite utilization value can, in turn, be passed on to other intelligence objects that continue to build on, or add to, the measurements so that performance across multiple computer, tiers, operating systems, applications, etc., is achieved. The method allows measurement of real-time behavior of the servers components,

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resources, etc. to achieve an overall measure of the behavior and performance of the network.

Hafez disclosed multiple data collectors for collecting system related and transaction related performance metrics. However Hafez does not disclose *calculating the CNV of a beginning server as an integer value through a combination of the LNVs of a sub-network of servers that begins with the beginning server, the calculation of the CNV including the LNV of the beginning server, the CNV reflecting the capacity of the sub-network beginning with the beginning server to collectively receive workloads.*

Strandberg disclosed a method for propagating node information through ingress, core, and egress nodes using peer-to-peer communication in a differential network, said node information containing performance parameters such as packet loss, delay rate, queue load, service rate and stability. However Strandberg does not disclose *calculating the CNV of a beginning server as an integer value through a combination of the LNVs of a sub-network of servers that begins with the beginning server, the calculation of the CNV including the LNV of the beginning server, the CNV reflecting the capacity of the sub-network beginning with the beginning server to collectively receive workloads.*

Waclawski disclosed selecting forecasting performance metrics from among

a plurality of performance metrics includes a data mining kernel that receives performance metrics from a collection agent. However Waclawski does not disclose *calculating the CNV of a beginning server as an integer value through a combination of the LNVs of a sub-network of servers that begins with the beginning server, the calculation of the CNV including the LNV of the beginning server, the CNV reflecting the capacity of the sub-network beginning with the beginning server to collectively receive workloads.*

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

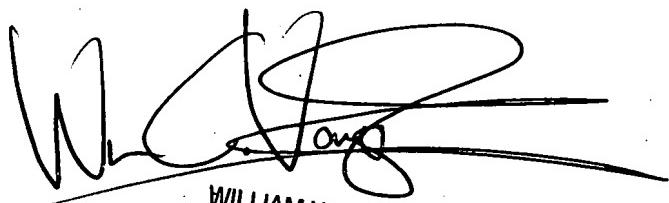
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

gcb



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